

2009 DRAFTING REQUEST

Bill

Received: **03/31/2009**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Dave de Felice**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Voter deception and intimidation

Instructions:

Per 07-0736/2 + 2 other attachments ("Voter Protection Act" and 110 H.R. 1281).

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 04/02/2009	bkraft 04/02/2009		_____			State Crime
/1			mduchek 04/06/2009	_____	sbasford 04/06/2009	sbasford 04/23/2009	

FE Sent For: "/1" @intro. 4/24/09

<END>

2009 DRAFTING REQUEST

Bill

Received: **03/31/2009**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Dave de Felice**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Voter deception and intimidation

Instructions:

Per 07-0736/2 + 2 other attachments ("Voter Protection Act" and 110 H.R. 1281).

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 04/02/2009	bkraft 04/02/2009		_____			State Crime
/1			mduchek 04/06/2009	_____	sbasford 04/06/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **03/31/2009**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Dave de Felice**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Voter deception and intimidation

Instructions:

Per 07-0736/2 + 2 other attachments ("Voter Protection Act" and 110 H.R. 1281).

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	jkuesel	1 bjk 4/2					
----	---------	-----------	---	---	--	--	--

FE Sent For:

<END>

Kuesel, Jeffery

From: Hanaman, Cathlene
Sent: Thursday, March 26, 2009 3:50 PM
To: Kuesel, Jeffery
Subject: FW: Election Law Bill Draft Request

Attachments: Bill - 2009 - Voter Deception - Intimidation - PSN Version.pdf; Bill - 2009 - Voter Deception - Intimidation - PSN Version 2.pdf; Bill - 2009 - Model State Anti-Caging Bill - PSN Version.doc; Bill - Voters Rights- 2007 - DRAFT 2 - 07-07362.pdf

These are all your bills, right?

From: de Felice, David Patrick
Sent: Thursday, March 26, 2009 3:45 PM
To: Hanaman, Cathlene
Subject: Election Law Bill Draft Request

Cathlene,

Sen. Coggs would like two bills drafted; one, relating to prohibiting practices that deceive and intimidate voters, and a second bill relating to anti-caging prohibitions.

Attached are:

1. HR 1281, federal legislation prohibiting certain voter deception and intimidation practices
2. The Voter Protection Act, state model legislation from the Center for Policy Alternatives and the Progressive States Network
3. Model State Anti-Caging Bill, from the Center for Policy Alternatives and the Progressive States Network
4. 2007 LRB 0736/2, a bill Sen. Coggs had drafted relating to voter deception and intimidation practices.

Sen. Coggs would like one bill drafted relating to voter deception and intimidation using attachments 1, 2, and 4.

He would like a second bill drafted related to anti-caging prohibitions using attachment 3.

If there are any questions or concerns, please don't hesitate to contact me.

Thank you,

Dave de Felice
Office of Sen. Coggs
608-266-2500 phone
608-282-3546 fax



Bill - 2009 - Voter
Deception ...



Bill - 2009 - Voter
Deception ...



Bill - 2009 - Model
State Anti...



3ill - Voters Rights-
2007 - ...

Voter Protection Act

Summary: The Voter Protection Act bans voter intimidation and voter suppression, establishes a Voter's Bill of Rights, and requires the creation of a Manual of Election Procedures.

SECTION 1. SHORT TITLE

This Act shall be called the "Voter Protection Act."

SECTION 2. FINDINGS AND PURPOSE

(A) FINDINGS—The legislature finds that:

1. The 2000 election exposed serious flaws in our nation's voting systems. Across the nation, as many as four million registered voters who wanted to vote were turned away or discouraged from voting. The pattern of turning away or discouraging voters continued in 2004, due to voter intimidation and suppression tactics, as well as through communications failures and mistakes.
2. In [State], as many as XX registered voters were discouraged from voting in November 2004.
3. In order to protect the right to vote for all its citizens, the state must ban voter intimidation and voter suppression, establish a Voter's Bill of Rights, and provide election officials and voters a Manual of Election Procedures.

(B) PURPOSE—This law is enacted to protect and enhance the most basic right in a democracy—that all qualified adults are guaranteed the right to vote.

SECTION 3. VOTER PROTECTION

After section XXX, the following new section XXX shall be inserted:

(A) DEFINITIONS—In this section:

1. "Board" means the State [Board of Election Supervisors]. (NOTE: Where appropriate, the Secretary of State's office can be designated as the administering agency.)
2. "Election" means any federal, state or local election held in the state.
3. "Local election supervisor" means a person or group of persons directing the conduct of elections for any city or county.
4. "Election official" means a person or group of persons directing the conduct of elections at the precinct, county or statewide level.

(B) VOTER INTIMIDATION AND SUPPRESSION

1. **Voter Intimidation.** A person is guilty of voter intimidation if he or she uses or threatens force, violence or any tactic of coercion or intimidation to induce or compel any other person to:
 - a. Vote or refrain from voting;
 - b. Vote or refrain from voting for any particular candidate or ballot measure; or
 - c. Refrain from registering to vote.

2. **Voter Suppression.** A person is guilty of voter suppression if he or she knowingly attempts to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive or spurious grounds or information. Voter suppression includes:
- a. Challenging another person's right to register or vote based on knowingly false information;
 - b. Attempting to induce another person to refrain from registering or voting by providing that person with knowingly false information; or
 - c. Attempting to induce another person to refrain from registering or voting at the proper place or time by providing that person with knowingly false information about the date, time, place or manner of the election.

(C) VOTER'S BILL OF RIGHTS

1. **Creation and Posting of Voter's Bill of Rights.** Local election supervisors must post a Voter's Bill of Rights at every polling place, include it with every distribution of official sample ballots, and offer it to voters at polling places, in accordance with procedures approved by the Board. The text of this document will be:

"VOTER'S BILL OF RIGHTS

Every registered voter in this state has the right to:

1. Inspect a sample ballot before voting.
 2. Cast a ballot if he or she is in line when the polls are closing.
 3. Ask for and receive assistance in voting, including assistance in languages other than English where required by federal or state law.
 4. Receive a replacement ballot if he or she makes a mistake prior to the ballot being cast.
 5. Cast a provisional ballot if his or her eligibility to vote is in question.
 6. Vote free from coercion or intimidation by election officials or any other person.
 7. Cast a ballot using voting equipment that accurately counts all votes."
2. **Language Minorities.** In any political subdivision or precinct where federal or state law requires the ballot to be made available in a language other than English, the Voter's Bill of Rights will also be made available in such language or languages.

(D) MANUAL OF ELECTION PROCEDURES

The Board will create a manual of uniform polling place procedures and adopt the manual by regulation. Local election supervisors will ensure that the manuals are available in hard copy or electronic form at every precinct in the supervisors' jurisdictions on Election Day. The manual will guide local election officials in the proper implementation of election laws and procedures. The manual will be indexed by subject and written in clear, unambiguous language. The manual will provide specific examples of common problems encountered at the polls on Election Day, and detail specific procedures for resolving those problems. The manual will include, but not be limited to, the following:

- a. Regulations governing solicitation by individuals and groups at the polling place.
- b. Procedures to be followed with respect to voters whose names are not on the precinct register.
- c. Proper operation of the voting system.
- d. Ballot handling procedures.
- e. Procedures governing spoiled ballots.

- f. Procedures to be followed after the polls close.
- g. Rights of voters at the polls.
- h. Procedures for handling emergency situations.
- i. Procedures for handling and processing provisional ballots.
- j. Security procedures.

(E) ENFORCEMENT

1. Whoever commits voter intimidation or conspires to commit voter intimidation will be guilty of a felony, punishable by up to three years in prison and a fine of up to \$100,000.
2. Whoever commits voter suppression or conspires to commit voter suppression will be guilty of a felony, punishable by up to two years in prison and a fine of up to \$50,000.
3. Any person who willfully violates any other part of this section will be guilty of a misdemeanor, punishable by up to one year in prison, a fine of up to \$10,000, or both.
4. The Board will promulgate regulations necessary to enforce this section.
5. In addition to criminal and regulatory sanctions, this section may be enforced by a private cause of action under [appropriate section of state statutes]. In a successful action, the court shall award the plaintiff costs and attorney's fees.

SECTION 4. EFFECTIVE DATE

This Act shall take effect on _____.

[This model legislation was developed by the Center for Policy Alternatives.]

110TH CONGRESS
1ST SESSION

H. R. 1281

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2007

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, to prohibit certain deceptive practices in Federal elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Deceptive Practices
3 and Voter Intimidation Prevention Act of 2007”.

4 **SEC. 2. PROHIBITION ON DECEPTIVE PRACTICES IN FED-**
5 **ERAL ELECTIONS.**

6 (a) IN GENERAL.—Chapter 29 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 618. Deceptive practices in Federal elections**

10 “(a) Whoever, before or during a Federal election
11 knowingly communicates election-related information
12 about that election, knowing that information to be false,
13 with the intent to prevent another person from exercising
14 the right to vote in that election, or attempts to do so,
15 shall be fined under this title or imprisoned not more than
16 5 years, or both.

17 “(b) As used in this section—

18 “(1) the term ‘Federal election’ means any gen-
19 eral, primary, run-off, or special election for the of-
20 fice of President, Vice President, presidential elector,
21 Member of the Senate, Member of the House of
22 Representatives, or Delegate or Commissioner from
23 a territory or possession; and

24 “(2) the term ‘election related information’
25 means information regarding—

1 “(A) the time, place, or manner of con-
2 ducting the election;

3 “(B) the qualifications for or restrictions
4 on voter eligibility for the election, including—

5 “(i) any criminal penalties associated
6 with voting in the election; or

7 “(ii) information regarding a voter’s
8 registration status or eligibility;

9 “(C) with respect to a closed primary elec-
10 tion, the political party affiliation of any can-
11 didate for office, if the communication of the
12 information also contains false information de-
13 scribed in subparagraph (A) or (B); or

14 “(D) the explicit endorsement by any per-
15 son or organization of a candidate running for
16 any office voted on in the election.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for chapter 29 of title 18, United States Code, is amended
19 by adding at the end the following new item:

“618. Deceptive practices in Federal elections.”.

20 **SEC. 3. MODIFICATION OF PENALTY FOR VOTER INTIMIDA-**
21 **TION.**

22 Section 594 of title 18, United States Code, is
23 amended by striking “one year” and inserting “5 years”.

1 **SEC. 4. SENTENCING GUIDELINES.**

2 (a) REVIEW AND AMENDMENT.—Not later than 90
3 days after the date of enactment of this Act, the United
4 States Sentencing Commission, pursuant to its authority
5 under section 994 of title 28, United States Code, and
6 in accordance with this section, shall review and, if appro-
7 priate, amend the Federal sentencing guidelines and policy
8 statements applicable to persons convicted of any offense
9 under sections of title 18, United States Code, that are
10 added or modified by this Act.

11 (b) AUTHORIZATION.—The United States Sentencing
12 Commission may, for the purposes of the amendments
13 made pursuant to this section, amend the Federal sen-
14 tencing guidelines in accordance with the procedures set
15 forth in section 21(a) of the Sentencing Act of 1987 (28
16 U.S.C. 994 note) as though the authority under that sec-
17 tion had not expired.

18 **SEC. 5. REPORTING VIOLATIONS AND REMEDIAL ACTION.**

19 (a) REPORTING.—Any person may report to the At-
20 torney General any violation or possible violation of section
21 594 or 618 of title 18, United States Code.

22 (b) CORRECTIVE ACTION.—

23 (1) IN GENERAL.—Immediately after receiving
24 a report under subsection (a), the Attorney General
25 shall consider and review such report and, if the At-
26 torney General determines that there is a reasonable

1 basis to find that a violation has occurred, the Attor-
2 ney General shall—

3 (A) undertake all effective measures nec-
4 cessary to provide correct information to voters
5 affected by the false information; and

6 (B) refer the matter to the appropriate
7 Federal and State authorities for criminal pros-
8 ecution or civil action after the election.

9 (2) REGULATIONS.—

10 (A) IN GENERAL.—The Attorney General
11 shall promulgate regulations regarding the
12 methods and means of corrective actions to be
13 taken under paragraph (1). Such regulations
14 shall be developed in consultation with the Elec-
15 tion Assistance Commission, civil rights organi-
16 zations, voting rights groups, State and local
17 election officials, voter protection groups, and
18 other interested community organizations.

19 (B) STUDY.—

20 (i) IN GENERAL.—The Attorney Gen-
21 eral, in consultation with the Federal Com-
22 munications Commission and the Election
23 Assistance Commission, shall conduct a
24 study on the feasibility of providing the
25 corrective information under paragraph (1)

1 through public service announcements, the
2 emergency alert system, or other forms of
3 public broadcast.

4 (ii) REPORT.—Not later than 180
5 days after the date of the enactment of
6 this Act, the Attorney General shall submit
7 to Congress a report detailing the results
8 of the study conducted under clause (i).

9 (3) PUBLICIZING REMEDIES.—The Attorney
10 General shall make public through the Internet,
11 radio, television, and newspaper advertisements in-
12 formation on the responsibilities, contact informa-
13 tion, and complaint procedures applicable under this
14 section.

15 (c) REPORTS TO CONGRESS.—

16 (1) IN GENERAL.—Not later than 90 days after
17 any primary, general, or run-off election for Federal
18 office, the Attorney General shall submit to Con-
19 gress a report compiling and detailing any allega-
20 tions of false information submitted pursuant to
21 subsection (a) and relating to such election.

22 (2) CONTENTS.—Each report submitted under
23 paragraph (1) shall include—

24 (A) detailed information on specific allega-
25 tions of deceptive tactics;

1 (B) statistical compilations of how many
2 allegations were made and of what type;

3 (C) the geographic locations of and the
4 populations affected by the alleged deceptive in-
5 formation;

6 (D) the status of the investigations of such
7 allegations;

8 (E) any corrective actions taken in re-
9 sponse to such allegations;

10 (F) the rationale used for any corrective
11 actions or for any refusal to pursue an allega-
12 tion;

13 (G) the effectiveness of any such corrective
14 actions;

15 (H) whether a Voting Integrity Task Force
16 was established with respect to such election,
17 and, if so, how such task force was staffed and
18 funded;

19 (I) any referrals of information to other
20 Federal, State, or local agencies;

21 (J) any suit instituted under section
22 2004(b)(2) of the Revised Statutes (42 U.S.C.
23 1971(b)(2)) in connection with such allegations;
24 and

1 (K) any criminal prosecution instituted
2 under title 18, United States Code, in connec-
3 tion with such allegations.

4 (3) REPORT MADE PUBLIC.—On the date that
5 the Attorney General submits the report required
6 under paragraph (1), the Attorney General shall also
7 make the report publicly available through the Inter-
8 net and other appropriate means.

9 (d) DELEGATION OF DUTIES.—

10 (1) IN GENERAL.—The Attorney General shall
11 delegate the responsibilities under this section to a
12 Voting Integrity Task Force established under para-
13 graph (2).

14 (2) VOTING INTEGRITY TASK FORCE.—

15 (A) IN GENERAL.—The Attorney General
16 shall establish a Voting Integrity Task Force to
17 carry out the requirements of this section with
18 respect to any general, primary, run-off, or spe-
19 cial election for Federal office.

20 (B) COMPOSITION.—Any Voting Integrity
21 Task Force established under paragraph (1)
22 shall be under the direction of the Assistant At-
23 torney General for the Civil Rights Division and
24 the Assistant Attorney General for the Criminal
25 Division, jointly.

1 (e) FEDERAL OFFICE.—For purposes of this section,
2 the term “Federal office” means the office of President,
3 Vice President, presidential elector, Member of the Senate,
4 Member of the House of Representatives, or Delegate or
5 Commissioner from a territory or possession of the United
6 States.

Passed the House of Representatives June 25, 2007.

Attest: LORRAINE C. MILLER,
Clerk.

FROM
2007
0736/2

e bjk

2007 BILL

SA
x-ref

Inserts

voter intimidation, suppression, and protection

(regenerate)

- 1 AN ACT ~~to create~~ 12.17 and 12.60 (1) (am) of the statutes; and ~~to affect~~ 2007
2 Wisconsin Act (this act), section 4 (1); **relating to:** deceptive election
3 practices, granting rule-making authority, and providing a penalty. *penalties*

Analysis by the Legislative Reference Bureau

Currently, the statutes provide that no person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate or referendum that is intended to affect voting at an election. Violators ~~are guilty of a misdemeanor, and~~ may be fined not more than \$1,000 or imprisoned for not more than six months, or both. *voting dates*

This bill prohibits any person, whether acting in an official capacity or otherwise, from intentionally deceiving any other person regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on the eligibility of electors to vote in an election. Any person who violates the prohibition with intent to prevent any person from exercising the right to vote in an election ~~is guilty of a Class I felony and~~ may be fined not more than \$10,000 or imprisoned for not more than ~~three years and six months~~, or both. *\$10,000*

The bill permits any person who is aggrieved by an alleged violation to obtain a court order restraining the violation. The bill also permits any person to file a sworn complaint with the ~~Elections Board~~ Government Accountability Board ~~sometime after August 31, 2007~~ alleging that a violation has occurred or is occurring. If the board finds that the facts alleged in the complaint, if true, would constitute a violation, it must promptly investigate the complaint. If the board finds

five

the endorsement of candidates by specified persons

BILL

that a violation has occurred or is occurring, the board must take all measures necessary to provide correct information to electors who may have been deceived by the actions of the alleged violator, and must refer the matter to the appropriate authority for prosecution.

The bill also directs the ~~Elections Board~~ ^{Government Accountability Board} ~~sometime after August 31, 2007~~ to promulgate rules concerning corrective measures that may be appropriate whenever violations occur. In addition, the bill directs the board to report biennially to the appropriate standing committees of the legislature with regard to violations and actions taken in response to violations.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 12.17 of the statutes is created to read:

12.17 Deceptive election practices. (1) No person, whether acting under

color of law or otherwise, may intentionally ~~deceive any other person~~ ^{induce another} ~~regarding the~~ ^{to refrain} ~~time, place, or manner of conducting an election or the qualifications for or~~ ~~restrictions on the eligibility of electors to vote in an election.~~

(2) Any person who is aggrieved by an alleged violation of sub. (1) may bring an action for injunctive relief in circuit court for the county where the violation is alleged to occur.

(3) Any person may file a verified complaint with the board alleging facts that the person believes to constitute a violation of sub. (1). ^{NO 4} ~~The complaint shall~~

(4) Notwithstanding s. 5.05 (2m) (c), the board shall review each complaint received under sub. (3) within 24 hours of receipt, and if the board finds that the facts alleged in the complaint, if true, would constitute a violation of sub. (1), the board shall investigate the complaint within 48 hours of receipt. Notwithstanding s. 5.05 (2m) (c) 11., if the board finds that a violation of sub. (1) has occurred or is occurring, the board shall take all measures necessary to provide correct information to electors

from registering or voting at an election by knowingly providing that person with false election-related information

INS
B
space

INS
2-1

INS
2-2

INS
2-2

BILL

who may have been deceived by the actions of the alleged violator, and shall refer the matter to the appropriate authority for prosecution in accordance with ss. 5.05 (2m) (i) and 12.60 (4).

(16)(5) Notwithstanding s. 5.05 (2m) (c), if the board receives a complaint under sub. (3) within 72 hours before an election, and the board finds that the facts alleged in the complaint, if true, would constitute a violation of sub. (1), the board shall investigate the complaint and take the measures required under sub. (4) immediately.

(7)(6) Acting in consultation with civil rights organizations, voting rights organizations, voter protection organizations, other interested community organizations, and election officials, the board shall promulgate rules concerning corrective measures that may be appropriate whenever action by the board under sub. (4) is required.

(7) (a) No later than 90 days after each each general election, the board shall report to the chief clerk of each house of the legislature for referral to the appropriate standing committees under s. 13.172 (2) concerning any complaints under sub. (3) that were acted upon or referred by the board under sub. (4) during the period beginning with the date of the 2nd preceding general election and ending with the preceding general election. Except as provided in par. (b), the report shall include a description of the alleged deceptive election practices that were the subject of each complaint, any corrective measures taken by the board with regard to the subject matter of the complaint, the board's evaluation of the effectiveness of those corrective measures, the status of any prosecution relating to the subject matter of the complaint, a compilation of the number and types of allegations made that were acted upon or referred by the board under sub. (4), the locations and segments of the

BILL

1 population that were affected by the alleged deceptive election practices, and the
2 status of any investigations conducted by the board under sub. (4).

3 (b) The board may exclude from the report under par. (a) any information that,
4 if disclosed, would interfere with a pending investigation of a violation of the law.

5 (c) The board shall post a copy of each report submitted under this subsection
6 on the Internet.

7 **SECTION 2.** 12.60 (1) (am) of the statutes is created to read:

8 12.60 (1) (am) Whoever violates s. 12.17 (1) with the intent to prevent any
9 person from exercising the right to vote in an election is guilty of a Class D felony.

10 **SECTION 3.** 2007 Wisconsin Act ... (this act), section 4 (1) is amended to read:

11 [2007 Wisconsin Act (this act)] section 4 (1) The elections government
12 accountability board, in consultation with the department of justice and the federal
13 election assistance commission, shall study the feasibility of providing corrective
14 information that may be required under section 12.17 (4) of the statutes, as created
15 by this act, through public service announcements, other uses of broadcast media,
16 or an emergency alert system. No later than the first day of the 7th month beginning
17 after the effective date of this subsection, the board shall report its findings and
18 recommendations to the chief clerk of each house of the legislature, in the manner
19 provided under section 13.172 (2) of the statutes, for referral to the appropriate
20 standing committees of each house.

21 **SECTION 4. Nonstatutory provisions.**

22 (1) The elections board, in consultation with the department of justice and the
23 federal election assistance commission, shall study the feasibility of providing
24 corrective information that may be required under section 12.17 (4) of the statutes,
25 as created by this act, through public service announcements, other uses of broadcast

STUDY OF OPTIONS FOR CORRECTIVE ACTION.

BILL

1 media, or an emergency alert system. No later than the first day of the 7th month
2 beginning after the effective date of this subsection, the board shall report its
3 findings and recommendations to the chief clerk of each house of the legislature, in
4 the manner provided under section 13.172 (2) of the statutes, for referral to the
5 appropriate standing committees of each house.

6 **SECTION 5. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) SECTION 3 of this act takes effect on the day after publication, or the
9 initiation date specified in 2007 Wisconsin Act 1, section 209 (1), whichever is later.

10 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2500/lins
JTK.....

INS A:

This bill makes various changes in the laws relating to elections and voting.
Deceptive election practices

INS B:

> ***Voter intimidation, suppression and protection***

restraint → Currently, no person may make use of or threaten to make use of force, violence, or ~~restrain~~ in order to compel any person to vote or refrain from voting at an election, and no person may, by any act compel, induce, or prevail upon an elector to either vote or refrain from voting at any election for or against a particular candidate or question. Violators may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both.

> This bill provides that no person may make use of or threaten to make use of force, violence, restraint, or any tactic of coercion or intimidation in order to induce or compel any person to vote or refrain from voting or to refrain from registering to vote at an election, and no person may use or threaten to use force or violence or by use of any threat of any act of coercion or intimidation compel, induce, or prevail upon an elector either to vote or refrain from voting at any election for or against a candidate or question. Violators may be fined not more than \$100,000 or imprisoned for not more than three years, or both.

> The bill also provides that no person may knowingly attempt to prevent or deter another person from voting or registering to vote based upon fraudulent, deceptive, or spurious grounds or information. Δ Violators may be fined not more than \$50,000 or imprisoned for not more than two years, or both.

> Currently, municipal clerks and boards of election commissioners are directed by law to post specified materials at each polling place. Δ The Government Accountability Board is directed to publish a manual that may be easily understood by the general public explaining the duties of election officials. Δ Currently, the board is also directed to ensure that in any jurisdiction in this state that is required under federal law to provide voting materials in a language other than English, the voting system used in that jurisdiction is in compliance with federal law. There is no specific penalty for violations, but the requirements are enforceable administratively and through the court system. Government Accountability

> This bill creates a voter's bill of rights and directs municipal clerks and boards of election commissioners to post a copy of the bill of rights at each polling place. Δ The bill also directs the board to include a number of specific items in its manual. Δ In addition, the bill requires that at each polling place located in a jurisdiction that is required under federal law to provide voting materials in a language other than English, at least one of the election officials who serves at that polling place must

speaking that language and all required postings must be made in that language as well as in English. Violators may be fined not more than \$10,000 or imprisoned for not more than one year, or both.

The bill also permits any elector of this state to sue for injunctive relief, a court order requiring or prohibiting certain action, or any other appropriate relief, to compel compliance with the bill's prohibitions and requirements relating to voter intimidation, suppression, and protection. Currently, an elector may be required to pursue administrative relief before filing suit, and in some cases must petition a district attorney or the attorney general to file suit on his or her behalf.

INS 2-1:

SECTION 1. 5.05 (1) (f) of the statutes is amended to read:

5.05 (1) (f) Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration, and shall promulgate rules to enforce s. 5.25 (4) (b), 5.34, 5.35 (6) (a) 4c., 12.09, and 12.19 and rules concerning the methods and means of providing corrective information to electors under s. 12.17 (5).

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128; 2007 a. 20.

SECTION 2. 5.06 (2) of the statutes is amended to read:

5.06 (2) No Except as authorized in s. 5.07 (2) and 12.17 (3), no person who is authorized to file a complaint under sub. (1), other than the attorney general or a district attorney, may commence an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official with respect to any matter specified in sub. (1) without first filing a complaint under sub. (1), nor prior to disposition of the complaint by the board. A complaint is deemed disposed of if the board fails to transmit an acknowledgment of receipt of the complaint within 5

business days from the date of its receipt or if the board concludes its investigation without a formal decision.

History: 1983 a. 484; 1985 a. 182 s. 57; 1985 a. 304; 1989 a. 192.

> **SECTION 3.** 5.07 of the statutes is renumbered 5.07 (2).

SECTION 4. 5.07 (2) of the statutes is created to read:

5.07 (2) Whenever a violation of s. 5.25 (4) (b), 5.34, 5.35 (6) (a) 4c., 7.08 (3), 12.09, or 12.19 occurs or is proposed to occur, any elector of this state may sue for injunctive relief, a writ of mandamus or prohibition, or such other legal or equitable relief as may be appropriate to compel compliance with the law. The action shall be filed in circuit court for the county where the violation occurs or is proposed to occur.

> In such actions, the court shall award costs and reasonable actual attorney fees to the plaintiff if the plaintiff prevails in the action.

SECTION 5. 5.25 (4) (b) of the statutes is amended to read:

5.25 (4) (b) In any jurisdiction that is subject to the requirement under 42 USC 1973aa-1a to provide voting materials in any language other than English, the board shall ensure that at least one of the election officials who serves at each polling place in that jurisdiction speaks that language, the materials specified in s. 5.35 (6) are posted in that language, and the voting system used at each polling place in that jurisdiction is in compliance with 42 USC 1973aa-1a.

History: 1975 c. 275; 1977 c. 427; 1979 c. 89; 1983 a. 532; 1985 a. 304, 332; 1987 a. 391; 1989 a. 192; 1999 a. 182; 2003 a. 265.

SECTION 6. 5.34 of the statutes is created to read:

5.34 Voter's bill of rights. Every qualified elector has the right to:

- (1) Inspect a sample ballot before voting.
- (2) Cast a ballot if he or she is in line when his or her polling place closes.

(3) Ask for and receive assistance in voting, including assistance in a language other than English if the elector resides in a jurisdiction where voting materials must be provided in that language under 42 USC 1073aa-1a.

(4) Receive a replacement ballot, up to 3 ballots in all, if he or she spoils a ballot before casting that ballot.

(5) Cast a provisional ballot whenever permitted under s. 6.96 or 6.97.

(6) Vote free from coercion or intimidation by any election official or other person.

(7) Cast a ballot using voting materials or equipment that enables the elector's ballot to be counted accurately.

SECTION 7. 5.35 (6) (a) 4c. of the statutes is created to read:

5.35 (6) (a) 4c. A copy of the voter's bill of rights under s. 5.34.

> **SECTION 8.** 7.08 (3) (d) ^{to (g) are} of the statutes ~~is~~ created to read:

7.08 (3) (d) Be written in clear, unambiguous language.

(e) Be indexed by subject.

(f) Contain specific examples of common problems encountered at polling places on election day, and detailed, specific procedures for resolving those problems.

> (g) Include an explanation of all of the following:

1. Laws and rules governing solicitation by individuals and groups at a polling place.

2. Procedures to be followed with respect to electors whose names do not appear on the registration list.

3. Proper operation of any electronic voting system used at a polling place.

4. Procedures for handling of ballots.

5. Procedures governing spoiled ballots.

6. Procedures to be followed after a polling place closes.
7. Rights of electors at the polls.
8. Procedures for handling of emergency situations.
9. Procedures for handling and processing of provisional ballots.
10. Security procedures.

SECTION 9. 7.08 (11) of the statutes is created to read:

7.08 (11) REMEDIES FOR DECEPTIVE ELECTION PRACTICES. Disseminate through
> the Internet and radio, television, and newspaper advertisements information
concerning complaint procedures and remedies for deceptive election practices
under s. 12.17.

SECTION 10. 12.09 (1) and (3) of the statutes are amended to read:

12.09 (1) No person may personally or through an agent make use of or
threaten to make use of force, violence, or restraint, or any tactic of coercion or
intimidation in order to induce or compel any person to vote or refrain from voting
or to refrain from registering to vote at an election.

History: 1973 c. 334; 1991 a. 316; 2005 a. 451.

(3) No person may personally or through an agent, by any use or threaten to
use force or violence or by use or threat of any act of coercion or intimidation compel,
induce, or prevail upon an elector either to vote or refrain from voting at any election
for or against a particular candidate or question at a referendum.

History: 1973 c. 334; 1991 a. 316; 2005 a. 451.

INS 2-2:

(1) In this section, "election-related information" means information
concerning any of the following:

- (a) The date, time, place, or manner of conducting an election.
- (b) The qualifications for or restrictions on the eligibility of electors voting at an election, including any criminal penalties associated with voting in an election or a voter's registration status or eligibility.
- (c) The explicit endorsement by any person of a candidate at an election.

INS 4-6:

SECTION 11. 12.19 of the statutes is created to read:

12.19 Voter suppression. No person may knowingly attempt to prevent or deter another person from voting or registering to vote based upon fraudulent, > deceptive, or spurious grounds or information. A violation of this section includes:

(1) Challenging another person's right to register or vote at an election based upon information the person knows is false.

(2) Attempting to induce another person to refrain from registering or voting by providing that person with information the person knows is false.

SECTION 12. 12.60 (1) (a) of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. ~~12.09~~, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony.

History: 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1.

INS 4-20:

SECTION 13. 12.60 (1) (an) of the statutes is created to read:

> 12.60 (1) (an) Whoever violates s. 12.09 is guilty of a class D felony.

SECTION 14. 12.60 (1) (ap) of the statutes is created to read:

> 12.60 (1) (ap) Whoever violates s. 12.19 is guilty of a class E felony.

SECTION 15. 12.60 (1) (bn) of the statutes is created to read:

12.60 (1) (bn) If a municipal clerk or executive director of a board of election commissioners fails to ^{ensure compliance with s. 5.35(4)(b) or to} post the materials specified in s. 5.35 (6) (a) at each polling place located in the municipality served by the clerk or ^{executive} director at any election, or
> the ^{government accountability to} executive director of the board fails to ^{may} include any of the materials specified in
> s. 7.08 (3) in the election manual, the violator ~~shall~~ be fined not more than \$10,000 or imprisoned for not more than one year, or both.

SECTION 16. 939.50 (3) (d) of the statutes is amended to read:

939.50 (3) (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both, except that for a violation of s. 12.09, the term of imprisonment may not exceed 3 years and for a violation of s. 12.17, the term of imprisonment may not exceed 5 years.

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283; 1999 a. 188; 2001 a. 109.

SECTION 17. 939.50 (3) (e) of the statutes is amended to read:

939.50 (3) (e) For a Class E felony, a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both, except that for a violation of s. 12.19, the term of imprisonment may not exceed 2 years.

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283; 1999 a. 188; 2001 a. 109.

INS 5-7:

> (1) The treatment of sections ^{2008(3)(d) to (g)} ~~5.35 (6) (a)~~ of the statutes takes effect on January 1, 2011.

Duerst, Christina

From: de Felice, David Patrick
Sent: Thursday, April 23, 2009 10:24 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2500/1 Topic: Voter deception and intimidation

Please Jacket LRB 09-2500/1 for the SENATE.